

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
SPECIAL MEETING
August 28, 2003
9:00 AM**

Present: Appointed members: Donald Mooney, Caleb Faux, Jackie McCray, Peter Witte; Councilmember Jim Tarbell; City Manager Valerie Lemmie; Community Development and Planning Staff: Margaret M. Moertl, Director, Skip Forwood, Acting Chief Planner, and Steven Kurtz, Administrator, Land Use Management

Mr. Mooney called the meeting to order.

DISCUSSION

REPORT AND RECOMMENDATION ON THE FINAL DRAFT ZONING CODE TEXT AND MAPS.

Mr. Mooney stated that as a result of three public hearings that were held jointly by the Neighborhood and Public Services Committee and the City Planning Commission, changes had been made to the proposed Zoning Code text and mapping. The purpose of this special meeting of the City Planning Commission was to ensure the public was satisfied with changes that had been made and to accept additional comments. He stated that if anyone had additional concerns following their review of the text and mapping, comments could be submitted in writing during the next week for review. Mr. Kurtz added that the draft text reflecting recent changes would be on the City's website and would be available on cd rom following the meeting.

Jeff Raser, 304 East 8th Street, GlaserWorks, stated that changes that had been requested by the Walnut Hills area had been made and they are looking forward to seeing the mapping and text. Additionally, relative to his occupation as an architect, he remarked that an update to the Zoning Code is needed. He urged the Commission and City Council to pass it as soon as possible and questioned when they anticipated it being forward to City Council.

Mr. Mooney responded that the timing was still in flux and he would provide an update at the end of this meeting.

[Ms. McCray entered the meeting]

Tom Hefley, 2 Garfield Place, Hefley-Stevens Architects, explained that as Chairman of the Zoning Board of Appeals for fifteen years, he was aware of problems that existed with the old Zoning Code. He wished to congratulate the Commission, staff and consultants for their effort. He stated he was concerned with some changes including the elimination of hearings, which would allow for subjective review. He indicated that he identified sixteen items that are to be considered in reviews, which he considers to

be subjective in nature, including, character, harmonious, scale, etc. He stated that while he understands that the Buildings and Inspections Department (B&I) had been involved in the past, they would be left to interpret what someone else wrote.

Betty Kamuf, 6421 Gracely Drive, stated she objects to the fact that there is no city-wide master plan to accompany the new Code. As a resident of Sayler Park, she stated their wish is to remain a small community. She explained that her lot is 19,000 s.f., but is proposed to be SF-6. She also expressed concern that the changes would make it easier to tear down houses. Ms. Kamuf emphasized that Sayler Park does not want industrial development.

Mr. Mooney explained that the new code significantly increases the number of single-family zoning districts. (Ms. Moertl noted that single-family districts increased from 26-27% to 53% throughout the City.) Mr. Mooney suggested that if Ms. Kamuf could specify areas or streets where several lots should be zoned SF-20, they would review them. Mr. Kurtz added that staff recently reviewed property in Sayler Park and determined that the properties are predominantly less than 10,000 s.f.

Gerry Kraus, 1227 Stratford Place, 45229, stated that she represents the North Avondale Neighborhood Association (NANA), who is requesting that the Commission take no action at this time because the text changes have not been available to the public, there are still unresolved mapping issues, and updating the Zoning Code without having an updated city-wide master plan is bad planning. Ms. Kraus addressed additional issues NANA had with the text:

- 1) Business uses (including B & Bs and daycare facilities) should not be allowed in SF-10 and SF-20;
- 2) Off and on-street parking of commercial vehicles, which is prohibited now, appears to be permitted with new code. In addition, the definition of commercial vehicles is not adequate;
- 3) The new code eliminates language, which specifically prohibits Homes for Adjustment in residential districts and permits them as an accessory use in some residential districts.
- 4) Signage is less restrictive;
- 5) Buffer zones provisions are inadequate, particularly where commercial districts abut residential;
- 6) The PD language is unclear; and
- 7) Mapping does not reflect current land use.

Mary Croft, 562 Davenport Avenue, 45204, stated that in addition to 562 Davenport Avenue, which overlooks the city, she owns 552 Mt. Hope. She questioned if there would no longer be Environmental Quality districts with the new code.

Steve Briggs, DCDP, explained that of the 25 hillside areas identified in a hillside study completed in 1968, 12 areas requested to be an Environmental Quality district. With the proposed code, to protect all of Cincinnati's hillsides, environmental quality standards would be applied to all of the 25 identified hillsides to allow for review of potential

development. If, when applying for a permit, an applicant meets the narrowly defined standards, the applicant could receive a permit without a hearing. If the applicant does not meet the standards, then a hearing would be required.

Ms. Croft stated that she thought it was good that all hillsides would be included, but felt that the 12 existing districts had certain distinctive characteristics with guidelines developed pertaining them. Mr. Briggs acknowledged that when each district was created, a list of specific guidelines were developed for each district, which varied widely. East Price Hill has only three guidelines; whereas, East Walnut Hills has almost 45 specific guidelines. This new system offers more protection for East Price Hill, but provides the same protection for East Walnut Hills. She stated she was still concerned that the uniqueness of each hillside, particularly, the characteristics of East Price Hill hillside, would not be protected.

Tom Croft, 562 Davenport, 45204, emphasized the distinctive characteristics of the East Price Hill hillside in that it is uniquely visible from the valley, highways, and the City. On that basis alone, he contended it should receive special attention whenever any development is undertaken. He acknowledged the attraction of having standards in place, but pointed out that the standards are narrow relative to the scope of the guidelines. He stated that some of the specific guidelines should be included in the standards, including #1) *Plan buildings to reflect the scale and proportion of surrounding trees*; #3) *Plan development to fit the visual composition of the hillside wall in which it would occur or demonstrate that positive improvement would result from modifying it*; and. #10) *Match scale of buildings to scale of terrain*.

Mr. Mooney pointed out one of the standards stipulates that where applicable, the guidelines contained in the "Cincinnati Hillside Development Guidelines" report should be considered in evaluating development applications.

In response to Mr. Mooney, Mr. Croft asserted that incorporating guidelines by reference minimizes their importance and would result in them receiving no attention at all.

Marvin Kraus, 1227 Stratford Place, 45229, stated that he is concerned that there are still neighborhoods that do not realize some of the residential zoning would be less restrictive. He suggested that one more effort be made to reach out to all sections of the City where RMX is proposed, which he considered the most troublesome. He stated that a good portion of S. Fred Shuttlesworth Circle is proposed to be RMX. He stated that there is a trend there of converting multi-family residences back to single family. The RMX designation would be a deterrent to that trend. In response to Mr. Mooney, he stated the current designation is R-3-T. He suggested that the Commission not only look at S. Fred Shuttlesworth, but look at RMX in throughout the City.

Mr. Kraus also pointed out also that family daycare homes are permitted in all residential zones and contended that political subdivisions have the right to zone as they deem appropriate. He suggested that while zoning could not prohibit daycare

homes entirely, it could limit the daycare homes to SF-6 districts. He explained that the daycare facilities are not licensed and therefore, allowing them allows for uncontrolled business uses in residential zones.

Mr. Mooney suggested since nothing had changed in the new code with regard to daycare centers, it should not be regulated with new zoning. Changes in regulation should be lobbied for separately. If, as a result of recent state legislation, daycare centers do not have to be allowed in all residential zones, it should be brought to City Council's attention.

Linda Briscoe, President of the Winton Hills Citizens' Action Association, stated that she worked with the USEPA, EPA and the City to have Winton Hills recognized as an Environmental Justice Area. She stated that she would like to see that designation in new Zoning Code to prohibit any other chemical companies from coming into the area with more contamination.

Roger Davis, 3605 Roll Avenue, 45223, with the South Cumminsville Community Council, stated that there was an agreement made between the City and South Cumminsville that the Dawson railroad property is to be turned over to the abutting property owners. He encouraged the City to abide by their agreement.

Scott Luzzo, 747 Froome Avenue, 45232, completed a speaker request card, but was not present when recognized to speak.

Mel Martin, 5644 Mapleridge Place, 45227, stated he was present on behalf of the community of Linwood at the request of Mr. Bibb and Miss O'Donnell. He stated he is a civil engineer by training, had 30 years of citizen planning with the Madeira Planning Commission, and is Chairman of the Land Use Committee with OKI. He said it is unfortunate that the zoning code is going forward without a master plan. He presented a graphic illustrating the Lunken Airport Playfield area. He stated the community is concerned with what would become of the Playfield with the expansion of Lunken Airport. In addition, it would no longer be isolated with a bike path crossing through it from the Theodore Berry International Friendship Park to Xenia Ohio. The Playfield is proposed to be changed from M1 to ML. He recommended the City consider having a park or recreation designation within the code.

David Efland, DCDP, replied that since there is no recreation zoning, the general policy is to zone parks SF-20, the most restrictive district. Lunken Airport Playfield is a different case since the property is still owned and controlled by the airport; Recreation leases the property. He pointed out that Lunken is preparing to engage in a land use plan/master plan, and encouraged the community to be a part of that process.

Tim Jeckering, 4303 Hamilton Avenue, 45223, stated that as a practicing architect in Cincinnati, he wanted to commend staff and the City for undertaking the needed task of updating the zoning code. As president of the Northside Community Council, he wished to make it a matter of record that they are currently developing a land use plan

for Northside, which is focusing on housing, commercial, green spaces, and quality of life (which includes schools). He stated that the proposed changes of multi-family to single-family are positive. He anticipated their plan would be completed in October or November 2003. At that time, they would like to make formal recommendations regarding zoning in Northside. If the zoning code is passed prior to that, the neighborhood would likely request a complete re-zoning of their community.

Steve Schreiber, 3615 Middleton, 45220 and Jack Brand, 3750 Middleton, 45220, representing the Clifton Town Meeting, expressed appreciation for the response to concerns raised at the public hearing in Bond Hill. Mr. Schreiber requested that the Commission revisit the guidelines for their business district, incorporating the language "New businesses should contribute to the desired mix of commercial activities; franchise-type establishments are acceptable, provided they are pedestrian and not automobile oriented." He indicated that the first clause was their primary concern. Secondly, Mr. Schreiber requested that the RMX designation for Thrall Street, Bryant Avenue, and Bishop Street be reconsidered to be one of the small lot single-family districts. They are currently zoned R-3, but are occupied mostly by single-family.

Mr. Kurtz stated that staff would look at the area, but pointed out giving an SF designation to an area that has multi-family residences would create additional non-conforming uses, which they are trying to avoid.

Mr. Brand replied that the RMX designation would allow an individual to convert a single-family into a three-family; the current designation would only allow conversion to a two-family. He stated that this would be going in the opposite direction of their goal to retain single-family homeownership. He thought more appropriate designations would be to have Thrall and Bryant SF-6 and Bishop Street SF-4. Mr. Schrieber suggested that there should be a balance between the desires to not create non-conforming uses with how a neighborhood should develop. Mr. Brand added that they would not be opposed to the new zoning designation if it was comparable to R-3.

Jim Mueller, 751 Beechwood Avenue, 45232, stated he represents Winton Place. He pointed out that the RMX had not yet been removed from Winton Place. He stated that in considering the information he previously presented, the area appears not meet the criteria established for RMX. He asked that the Commission review the area again.

In addition, Mr. Mueller commented that Winton Place has born the burden of chemical facilities, manufacturing, hazardous waste recycling, commercial development, and two major landfills. In addition, there is a continuing threat of the waste transfer station, which would cause a major increase of truck traffic of approximately 350-400 trucks per day. He pointed out that the community is adjacent to Spring Grove Cemetery, has access to Xavier, UC and hospitals and is within 6 miles of downtown and therefore it is an ideal place for developing a community. To give the Gray Road area over to excessive and commercial development with a zoning designation of ML, would prompt more residential property owners to abandon the community. He stated that current zoning is M1.

In reply to Mr. Mooney, Mr. Mueller stated that he would prefer the zoning stay as it is today. He acknowledged that the zoning was changed in response to the community to SF-20, but was reverted to ML when a major property owner wrote in disagreement. Julia Carney, Department of Community Development and Planning (DCDP), stated that the southern portion of Gray Road is still proposed to be SF-20. Mr. Kurtz responded that where there are major discrepancies in use, a formal zone change should be pursued, where all property owners are represented. Mr. Kurtz added that ML would allow limited commercial uses that M1 would not permit and thereby encourage more mixed-use development, which is a goal with the new code.

Mr. Mooney stated that they would look at the map again, but noted that they cannot rezone in any significant way as part of this process. In response to questions from Mr. Mooney, Mr. Muller stated that the single-family designations are an improvement; however, he would prefer delaying the approval of the proposed zoning code. He expressed apprehension as to how two new zoning designations (ML and MG) would affect the City's residential areas. He suggested they need additional review.

Mr. Faux acknowledged that there is much sympathy by the Planning Commission for the concern that a master plan was not completed prior the update of the Zoning Code; however, nearly four years of work had gone into this proposed code. He conceded it is impossible to change a zoning code and develop a map that would make everyone happy and acknowledged the validity of Mr. Mueller's concern of opening the door to commercial uses. He pointed out that a number of professionals have opined that this is a vast improvement over the current Zoning Code and suggested that they move forward and get the new code adopted.

Mrs. Hagedorn, of Gray Road, interjected that she was the property owner that had written the letter requesting the zoning be changed back to ML and asked if she could more accurately state her position. She explained that she owns property adjacent to the Gray Road landfill and was satisfied with the M-1 zoning designation. She believed Mr. Sweitzer, who owns the Gray Road landfill, and she would be happy if it continued to be M-1 and acknowledged that ML is a more obnoxious designation. She pointed out that their goal was not to increase the value of their property, but to protect the value. She stated that the Winton Place Zoning Committee is working on a plan for the area, and she hoped they would ask for their input. She indicated they would be open to changes.

Eric Russo, Executive Director of the Hillside Trust, PO Box 8607, 45208 stated that the Hillside Trust provided input on the hillside regulation portions of the code. He suggested that the following issues be considered and modifications be made to address each:

1) *Unique characteristics of individual hillsides are not addressed*

He acknowledged that while the new code would create a system to regulate all hillsides when only 12 are currently regulated by overlay legislation, individual characteristics of hillsides could be overlooked if regulated as one.

2) *Accountability*

He explained that with the new code, a building inspector would be given the authority to review a project to determine if it met the standards applied to hillsides. There are no checks and balances to ensure that inspector is properly administering that code.

3) *Public Review*

He pointed out that if an inspector makes the initial determination of whether a project meets the hillside standards, the public input is being eliminated from the process. A neighboring property owner may not be made aware that a development is taking place until a bulldozer arrives at the site. Mr. Russo pointed out that the Trust has had to remind the City repeatedly that the guidelines are there for the benefit of the community, and not just for the developer.

In addition, Mr. Russo expressed concern for the future of the hillsides being the last remaining frontier of undeveloped land, when there is an abolished planning department and a need for more development. He suggested that the City has allowed the developer the power to influence decisions, when they need to remind themselves that they are in charge. He warned that with the loss of population, Cincinnati is in danger of becoming a second-class city, and suggested that it is evident that the City is not working in the best interest of its citizens, nor allowing them to be involved in a meaningful fashion.

[Ms. Lemmie left the meeting]

Gary Wollenweber, 1330 Edwards Road, 45208, stated he represented the Hyde Park Neighborhood Council. Mr. Wollenweber contended that any change to use or development regulation is a zone change; contrary to staff's assertion that this is an update of the zoning code and not rezoning. He said his greatest concern is the RMX designation for areas currently zoned R-3. He stated that after meeting with staff, a number of properties proposed for RMX were changed to single-family; however, he had additional data that would facilitate more changes. Mr. Wollenweber suggested that a new district should be created to reflect the criteria of the current R-3 district, since the RMX designation allows for significantly smaller lot sizes.

Mr. Wollenweber raised additional concerns including signage square footage in CN-P districts that greatly exceeds that currently allowed in the EQ guidelines and therefore should be reduced; front yard parking in residential districts is too liberal (the text had not yet been made available to verify that it had been changed) and the ML designation is more liberal than M1. He also expressed concern that many communities had not been involved and he did not believe that everyone was aware of the changes. He recommended that an outreach program be developed to ensure all communities are aware of the changes in the proposed zoning and stated he would be in favor of pairing

community councils with those that have been less involved. He also recommended that no action be taken until further review of text changes and mapping are completed.

Susan Doucleff, 3328 North Sterling Way, 45209, Oakley Community Council President, stated there had been adequate communication with the community councils for citizens to be informed of the proposed code and therefore, it should move forward. She expressed concern that B&I was not enforcing elements of the code in that they are waiting for the new code to be passed. Ms. Doucleff emphasized the importance of accountability and public review and encouraged it to be incorporated in to the new code.

Gene Bare, 633 Rushton Road, 45226, stated he is concerned about the economic viability of the business community and the sign regulations, which as written would adversely affect small businesses and minority businesses. He asserted that the section addressing size and placement of signs should be changed since B&I had indicated to him that it is not workable when dealing with multi-tenant buildings. He agreed with Ms. Doucleff in that enforcement today is a big problem, and the new code would result in more signs being mounted without a permit. He suggested that they refer to the Small Business Administration's website and review the SBA's position on signage and identification. He stated that the Business Advertising Council of Cincinnati had submitted specifics to staff, but would submit them again for the Commission's review.

Alton Mayo, 1887 Berkshire Club Drive, 45230, had requested to speak, but was not present.

Reggie Lyons, B&I, Zoning Office, requested that the staff of B&I and the public be given sufficient time to review the final document prior to implementation. It could benefit those who have projects in transition with working drawings already submitted. He pointed out that B&I had received letters and comments from the sign industry as to the impact the new signage regulation would have on small businesses. In an attempt to better address revocable street privileges, he suggested regulations be included that would specify height and projection limitations permitted for projecting signage. Incorporating this into the code would allow an individual to obtain a permit for a small projecting sign without going through the process of obtaining a revocable street privilege.

Mr. Mooney suggested that Mr. Lyons provide the language he would like incorporated into the code. He agreed that a transition period is necessary prior the implementation and they would determine an appropriate amount of time.

Mr. Mooney reminded those in attendance if they would like to obtain a cd with the text of the new code, they should contact Mr. Kurtz. He stated the Commission would meet on September 5 to discuss issues raised at this meeting and appropriate changes. The goal would then be to set a hearing date for the Commission to take action on the final version.

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

Margaret M. Moertl, Director
Community Development & Planning

Donald Mooney, Chairman
City Planning Commission

Date:_____

Date:_____